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NORTHERN DISTRICT OF CALIFORNIA**Thimesch Law Offices**

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E-filing

DMR

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIACV 11
Civil Rights

0332

ED MUEGGE,

Plaintiffs,

v.

COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES: DENIAL OF CIVIL
RIGHTS OF A DISABLED PERSON IN
VIOLATION OF THE AMERICANS WITH
DISABILITIES ACT, AND IN
VIOLATION OF CALIFORNIA'S
DISABLED RIGHTS STATUTES

DEMAND FOR JURY TRIAL

[Proper Intradistrict
Assignment: Western/Los
Angeles]DOUBLETREE ROHNERT PARK, also
doing business as "Doubletree
Hotel Sonoma Wine Country";
RLH PARTNERSHIP, L.P.; RED
LION G.P., INC.; HLT OPERATE
DTWC CORP.; HLT OPERATE DTWC,
LLC; DOUBLETREE DTWC
CORPORATION; DOUBLETREE DTWC,
LLC; DOUBLETREE, LLC; HILTON
HOTELS CORPORATION; and DOES
1 through 50, Inclusive,

Defendants.

Plaintiff ED MUEGGE, on behalf of herself and all other
similarly situated disabled persons, hereby complains of
Defendants DOUBLETREE ROHNERT PARK, a business entity, form
unknown, also doing business in California as "Doubletree Hotel
Sonoma Wine Country", served under California Code of Civil
Procedure §369.5; RLH PARTNERSHIP, L.P., a Delaware Limited
Partnership doing business in California, and aka "RLH

Complaint for Injunctive Relief and Damages

FILE BY FAX

1 Partnership"; RED LION G.P., INC., a Delaware Corporation, as a
2 general partner of RLH Partnership, L.P.; HLT OPERATE DTWC
3 CORP., a Delaware Corporation doing business in California which
4 has surrendered its California corporate registration, and
5 which, on information and belief, is aka "HLT Operate DTWC,
6 LLC", and which has surrendered its corporate registration in
7 California; HLT OPERATE DTWC, LLC, a Delaware Limited Liability
8 Corporation doing business in California, which, on information
9 and belief is aka "HLT Operate DTWC Corp."; DOUBLETREE DTWC
10 CORPORATION, a Delaware Corporation doing business in
11 California, and which has surrendered its corporate registration
12 in California, and on information and belief is currently doing
13 business as "Doubletree DTWC, LLC"; DOUBLETREE DTWC, LLC, a
14 Delaware Limited Liability Corporation doing business in
15 California, which, on information and belief is aka "Doubletree
16 DTWC Corporation", and which has surrendered its corporate
17 registration in California; DOUBLETREE, LLC, a Delaware Limited
18 Liability Company doing business in California; HILTON HOTELS
19 CORPORATION, a North Carolina Corporation doing business in
20 California; and DOES 1 through 50, Inclusive (hereafter
21 "Defendants"), and demands a trial by jury, and alleges as
22 follows:

23

24 INTRODUCTION

25 1. Defendants own, operate and/or lease the subject
26 Doubletree Hotel Sonoma Wine Country, a hotel with approximately
27 245 rooms (which include suites) located at One Doubletree
28 Drive, Rohnert Park, California.

1 2. Plaintiff ED MUEGGE is a person with disabilities
2 and requires the use of a wheelchair or scooter for mobility,
3 and has certain, short-term semi-ambulatory abilities. He also
4 has certain physical limitations that relate to his ability to
5 grasp issues.

6 3. A former long-time resident of Sonoma County, he
7 returns to the Santa Rosa area often to visit family and
8 friends. The Doubletree Hotel Sonoma Wine Country is convenient
9 to his transportation-route from the airport and its local drop
10 off. Within the two year period preceding the filing of this
11 Complaint, he has stayed multiple times at this hotel as a
12 paying guest, and also has been deterred from returning for his
13 lodging needs. As of this filing, he would like to stay at the
14 hotel during his next planned trip.

15 4. This is a suit to require Defendants to remediate
16 the hotel so that it fully accessible and usable by persons with
17 disabilities such as Plaintiff. Defendants maintain barriers
18 along the accessible route from the boundary of the site, their
19 normal paths of travel, their exterior and interior paths of
20 travel, their parking, their lobby, their concierge desk, their
21 public restrooms, their pool, their restaurant and patio, their
22 bar, their café, their business center, their fitness center,
23 their gardens, their guestrooms and suites, and, on information
24 and belief, many of their other amenities and facilities. These
25 barriers make the hotel inaccessible to physically disabled
26 persons who use wheelchairs or crutches, including Plaintiff.
27 Most humiliatingly, the designated disabled accessible
28 guestrooms themselves, which do not offer equal privileges, are

1 inadequate in number, have substantial barriers, and are not
2 spread across the full range of accommodations offered by the
3 hotel.

4 5. The hotel was built during the statutory period
5 under California's accessibility statutes, and construction
6 alterations and remodeling carried out at this facility, each of
7 which triggered further access requirements under California
8 law, as well as (for work occurring post January 26, 1992) under
9 the requirements of the Americans With Disabilities Act of 1990.
10 As described herein below, Plaintiff seeks injunctive relief to
11 require that the subject Doubletree Hotel Sonoma Wine Country
12 which he visited and was unable to enter and use on a full and
13 equal basis, be made accessible to disabled persons to meet the
14 requirements of both California law and the Americans With
15 Disabilities Act of 1990. Plaintiff also seeks deterrence
16 damages for violation of his Civil Rights for each date of
17 specific deterrence until such date as Defendants bring their
18 public facilities into full compliance with the requirements of
19 California and federal law.

20
21 **JURISDICTION AND VENUE**

22 6. This Court has diversity jurisdiction over this
23 action pursuant to Section 28 USC 1332. Plaintiff is a citizen
24 of Hawaii, and the defendant owner-operators-lessors of the
25 Subject Property in Santa Rosa are citizens of various states,
26 including California. Pursuant to pendant jurisdiction,
27 attendant and related causes of action, arising from the same
28 facts, are also brought under California law, including but not

1 limited to violations of California Health & Safety Code
2 Sections 19955 et seq., including Section 19959; Title 24
3 California Code of Regulations; and California Civil Code
4 Sections 54 and 54.1 et seq. Further, Plaintiff claims injury
5 and discrimination by past and ongoing policies related to the
6 reservation and compliance for disabled accessible guestrooms.

7 7. Venue is proper in this court pursuant to
8 28 U.S.C. 1391(b) and is founded on the fact that the real
9 property which is the subject of this action is located in this
10 district and that Plaintiff's causes of action arose in this
11 district.

12 8. Intradistrict Jurisdiction. Under Local Rules,
13 this case should be assigned to the Intradistrict for
14 Oakland/San Francisco as the real property that is the subject
15 of this action is located in such intradistrict, and Plaintiff's
16 causes of action arose there (a property located in Sonoma
17 County).

18
19 **PARTIES**

20 9. Plaintiff qualifies as "a person with a
21 disability," because of his required use of a wheelchair or
22 scooter, and because of his short-term semi-ambulatory
23 abilities. Plaintiff is informed and believes that each of the
24 Defendants herein, including Does 1-50, is the owner,
25 constructive owner, beneficial owner, successor-owner or
26 successor-in-interest, association, purchaser, trust, trustee,
27 agent, ostensible agent, alter ego, master, servant, employer,
28 employee, representative, franchiser, franchisee, joint

1 venturer, partner, associate, parent company, subsidiary,
2 department, representative, or such similar capacity (hereafter
3 collectively referred to as "such capacities"), of each of the
4 other Defendants, and was at all times acting and performing, or
5 failing to act or perform, within the course and scope of his,
6 her, their or its authority under such capacities, and with the
7 authorization, consent, permission or ratification of each of
8 the other Defendants, and is responsible in some manner for the
9 acts and omissions of the other Defendants in proximately
10 causing the violations and damages complained of herein, and
11 have approved or ratified each of the acts or omissions of each
12 other defendant, as herein described. Plaintiff will seek leave
13 to amend when the true names, capacities, connections, and
14 responsibilities of each defendant and Does 1-50, are
15 ascertained.

16 10. Plaintiff alleges on information and belief that
17 at all relevant times, Defendants either were and/or now are the
18 owners, operators, lessors and/or lessees of the public
19 accommodation, also know as the Doubletree Hotel Sonoma Wine
20 Country, located at or near One Doubletree Drive, Rohnert Park,
21 California.

22 11. The facilities of this business, including its
23 parking, entrances, grounds, pools, restaurants, bars,
24 guestrooms, and other public facilities and amenities (as listed
25 in paragraph 4) are each a "public accommodation or facility"
26 subject to the requirements of California Health & Safety Code
27 Sections 19955 et seq. and of the California Civil Code
28 Sections 54, 54.1, and 54.3. At all times relevant to this

1 complaint, Defendants have held these facilities open to public
2 use. Such facilities also constitute "public accommodations" or
3 "commercial facilities" subject to the requirements of Sections
4 302 and 303 of the Americans with Disabilities Act of 1990.

5
6 **FACTUAL STATEMENT**

7 12. Defendants are required by law to provide
8 accessible facilities on each occasion that "alterations,
9 structural repairs or additions" were performed to such
10 facilities pursuant to legal standards then in effect, per
11 Section 19959 of the Health & Safety Code, and under Section 303
12 of the Americans With Disabilities Act (which governs "new
13 construction" and "alterations").

14 13. On information and belief, each such facility
15 has, since July 1, 1970, been newly constructed, and/or
16 undergone "alterations, structural repairs, and additions," each
17 of which has subjected the Defendants and the subject hotel's
18 public facilities to disabled access requirements of
19 Section 19959 Health & Safety Code, Title 24 of the California
20 Code of Regulations, and/or, for such work occurring since
21 January 26, 1992, to the requirements of Section 303 of the
22 Americans With Disabilities Act.

23 14. Plaintiff alleges he has been denied access, or
24 have suffered deterrence, by barriers at the subject hotel (as
25 further described below), which include, but are not limited to:

26 a) Generally, the hotel fails to provide
27 signage specifying the location of its accessible routes and
28 accessible amenities, which is required by code. Thus the

1 hotel fails to notify wheelchair users such as Plaintiff of
2 the accessible route, which causes delay and searching, and
3 other diminishes Plaintiff's physical and mechanical
4 endurance.

5 b) There is no accessible route from the
6 various boundaries of the site the building's various main
7 entrances. This makes it difficult to impossible for
8 Plaintiff to safely enter and exit the site.

9 c) The hotel has too few designated disabled
10 accessible and designated disabled van accessible parking
11 spaces in each of its distinct parking lots serving the
12 various sides of the building and their amenities. This
13 restricts the parking opportunities and availability of
14 accessing these entrances.

15 d) The hotel lacks a demarcated and compliant
16 disabled accessible passenger unloading zone at its Porte
17 Cochere, which is a safety feature necessary to protect
18 individuals who use wheelchairs and other mobility assistive
19 devices.

20 e) There is a raised patio in front of the
21 hotel formed of large flagstones, and which is apparently
22 provided as a photo opportunity for guests. This facility
23 lacks an accessible route from the main entrance, lacks a curb
24 ramp where the normal path of travel crosses the curb line,
25 and has a non-compliant and irregular surfaces with sudden
26 vertical changes in rise and hazardous gaps between the
27 stones. Thus, this area cannot be accessed at all by
28 Plaintiff.

1 f) On information and belief, the various
2 designated, disabled-accessible self-parking facilities
3 (including designated van accessible spaces) that the hotel
4 provides have non-compliant slopes, cross-slopes, improper and
5 non-compliant unloading zones, a designated route that
6 proceeds behind parked vehicles other than the user's own,
7 and/or are otherwise improperly configured and signed. Each
8 of these barriers diminish Plaintiff's ability to park and
9 safely load and unload.

10 g) The lobby's registration desk fails to
11 provide a lower registration area along its main length,
12 providing only a hidden, unsigned and segregated lowered
13 counter in a back and obstructed area, and without knee space,
14 discriminating against wheelchair users in this manner.

15 h) The various couch groups in the lobby,
16 restaurant, bar, salon lobby, etc., which are provided for
17 intimate and business gatherings, each fail to provide an
18 accessible route and the required clear floor space. This
19 diminishes Plaintiff's ability to effectively use and
20 participate in these areas.

21 i) The hotel has various stairways, none of
22 which have the proper contrasting stripes at the nosings of
23 the stairs, none of which are served by compliant handrails
24 with the appropriate grippable cross-section, or the proper
25 extension at the bottom of the stairs, and, one of which, has
26 open risers, which are tripping hazard.

27 j) There are various fire places in the lobby
28 and in the Bacchus Restaurant that are not served by an

1 accessible route, nor by a compliant clear ground floor space.
2 This makes it difficult to impossible for Plaintiff to
3 approach and use this facility.

4 k) The bar on the raised platform in the
5 Lobby has a lowered counter whose usable and unobstructed
6 length is less than the 36 inches minimum required by code,
7 and which does not provide an unobstructed view of the
8 television, meaning this facility is not readily accessible
9 to, and usable by wheelchair users as provided by code, and
10 that it does not provide full and equal access.

11 l) There are no compliant lowered tables in
12 the bar area, meaning Plaintiff has been excluded from these
13 facilities.

14 m) The bar is served by an exterior patio
15 that has doors whose push pressure to operate is in excess of
16 5 lbs., and containing tables that do not provide the required
17 knee space underneath the table.

18 n) The ramp located at the south end of the
19 lobby, which is between the check in desk and the elevators to
20 the rooms, has slopes in excess of 8.33%, has handrails that
21 do not extend properly below the ramp run, and which have a
22 cross-section that does not provide the grippable surface
23 required by code. On information and belief, the ramp has a
24 non-compliant pad underneath its carpeted surface. The
25 cumulative effect of these barriers is that the ramp is
26 difficult for Plaintiff to use, and diminishes his physical
27 and mechanical endurance.

28 o) The carpeting center in the business area

1 has a padding underneath that does not provide the firm
2 surface required by code, primarily because it is not firmly
3 attached in areas. This condition can reduce Plaintiff's
4 physical and mechanical endurance.

5 p) The men's public restrooms in the
6 registration lobby and in the salon lobby share multiple
7 common barriers, including, but not limited to:

8 i. The signage on the door does not
9 provide compliant ADA and Title 24 signage, thus failing to
10 provide assurance to Plaintiff and other users of mobility
11 devices that all code requirements have been met.

12 ii. The push pressure required to open
13 the doors 5 lbs. maximum permitted, making it difficult for a
14 wheelchair user to operate.

15 iii. There are three sinks in the main
16 restroom, all of which are pedestal type sinks, which do not
17 provide the required knee space underneath the fixture, with
18 the soap dispenser and paper towels set on a ledge behind the
19 sink, which exceeds the 40 inch maximum height, and the
20 distance from the face of the sinks and soap dispenser and
21 papers towels exceeds the 35 inch maximum permitted by code.
22 Each of these barriers limit and/or prevent access to these
23 facilities by wheelchair users.

24 iv. The height above the finished floor
25 of the bottom reflective edge of the mirrors over the sinks
26 exceed the 40 inch maximum height permitted by code. This
27 makes it difficult to impossible for the wheelchair user to
28 use this facility for grooming next to the sink.

1 v. The urinals are in an alcove that has
2 a width that is below the minimum required by code, making it
3 difficult for the wheelchair user to access this feature.

4 vi. The door swing of the accessible
5 stall swings over the required landing in front of the urinal,
6 which is a violation for both the urinal and accessible stall,
7 thus making it difficult for the wheelchair user to access
8 these facilities when either landing is obstructed by a user
9 or an open door swing.

10 vii. The urinal has a height that is
11 higher than the 17 inch maximum permitted by code, impairing
12 its user by wheelchair users.

13 viii. The urinals are not set 15
14 inches on center, exactly, as required, making it difficult to
15 center on this fixture by wheelchair users.

16 ix. The door landings for the accessible
17 stalls have a strike edge clearance that is below the 18
18 inches required, making it difficult to impossible for
19 wheelchair users to operate.

20 x. The in-stall sink does not provide
21 the required clear floor space underneath the fixture, and has
22 a p-trap that protrudes more than 6 inches from the face of
23 the wall. Theses conditions inhibit wheelchair access under
24 the sink.

25 xi. The toilet is not set 18 inches on
26 center, exactly, as is required by the code to create a
27 predictable and regular environment for the disabled while
28 they are at their most vulnerable; this condition thereby

1 diminishes wheelchair users leverage and ability to transfer.

2 xii. The side grab bar has a knuckle space
3 that is reduced below the 1 1/4 inch exactly dimension that is
4 required by code because the recessed sanitary seat cover
5 dispenser protrudes beyond the face of the wall. This
6 condition limits graspability and leverage points for using
7 the grab bar safely.

8 xiii. The sanitary seat cover
9 dispenser is not mounted adjacent to the 30 X 48 inch
10 rectangular clear floor space, making it difficult to
11 impossible for wheelchair users to reach.

12 xiv. On information and belief, the side
13 grab bar does not project a minimum of 24 inches beyond the
14 face of the toilet. This limits the usable length of the grab
15 bar.

16 xv. The bottom edge of the reflective
17 surface of the mirror above the sink in the designated stall
18 is mounted at a height that exceeds the 40 inch maximum
19 permitted by the code, making it difficult to impossible to
20 use the mirror from a seated position.

21 q) The breakfast buffet in the Bacchus
22 Restaurant has a height that exceeds the 34 inch maximum
23 height for a reach across an obstruction. These conditions
24 make it difficult to impossible for wheelchair users to reach
25 and use the items on the breakfast bar.

26 r) The highest merchandise on the breakfast
27 buffet table is set at a height higher than the 54 inch
28 maximum height permitted by code, limiting use as stated in

1 the previous item.

2 s) The bar in the Bacchus Restaurant is set
3 at a height of approximately 42 inches above the finished
4 floor, and this bar does not provide the lower section that is
5 required by code, making it impossible for seated wheelchair
6 use.

7 t) The serving bar along the face of the open
8 kitchen is set a height of approximately 42 inches above the
9 finished floor, which exceeds the 34 inch maximum height for a
10 reach across an obstruction. This reduces the ability of the
11 wheelchair user to reach items for self-service off of the
12 counter.

13 u) The tables in the main dining area do not
14 provide the required knee space underneath the table, making
15 it difficult to impossible to use the tables surface.

16 v) The tables serving the bar area do not
17 provide the knee space required under the table, making it
18 difficult to impossible for wheelchair users to use the
19 table's surface.

20 w) The tables in the dining room with the
21 large fire place do not provide the required knee space
22 underneath the tables and the path of travel to the fire place
23 itself is below the minimum 36 inch width required by code.
24 The latter barrier makes the path to the fireplace difficult
25 to impassible by wheelchair users.

26 x) The exterior dining patio for the Bacchus
27 Restaurant is reached through an exterior door that requires a
28 push pressure exceeding the 5 lbs. maximum permitted by code,

1 making it difficult for wheelchair users to operate.

2 y) The door landing on the exterior side of
3 the aforementioned door is not level as required by code,
4 making it difficult for Plaintiff and other wheelchair users
5 to open and go through this entrance.

6 z) The path of travel into the patio is along
7 a narrow walkway that is less than the 48 inch minimum width
8 permitted by code. This path of travel goes through a hedge
9 positioned on either side of the walkway that is greater than
10 24 inches in length and less than 32 inches in width. The
11 surface of the patio itself is flagstones, which have vertical
12 rises and gaps that exceed the maximums permitted by code.
13 These barriers limit wheelchair access onto and across the
14 patio.

15 aa) The junction between the beginning of the
16 flagstone walkway and the concrete along the walkway from the
17 restaurant has a vertical rise that exceeds the maximum
18 permitted by code, inhibiting wheelchair access to this area.
19 This barrier inhibits wheelchair access across the vertical
20 rise, and limits physical and mechanical endurance.

21 bb) The tables on the patio do not provide the
22 knee space under the table required by code, making it
23 difficult to impossible for wheelchair users to easily and
24 properly use the table's surface.

25 cc) The path of travel between the restaurant
26 and the conference room/salons has a unprotected stairway that
27 overhangs the circulation space, and the height of the bottom
28 edge of the stairway is set below the 80 inch maximum height

1 permitted by code along a pedestrian circulation space. (This
2 subparagraph is not related to Plaintiff's disabilities, and
3 is advisory.)

4 dd) The salons have numerous audio visual
5 controls within them that are enclosed in a box with an
6 openable door. These audio visual control boxes do not have a
7 lock, and highest operable mechanism is set above the 54 inch
8 maximum height permitted by code. This barrier makes it
9 difficult to impossible for wheelchair users to reach and use
10 the amenity.

11 ee) The typical salon door has a push pressure
12 that exceeds the 5 lbs. maximum permitted by code, making it
13 difficult for wheelchair users to operate.

14 ff) The carpeting within the salons themselves
15 and in the corridor underneath has pads underneath, which does
16 not provide a firm surface as required by code, making it
17 difficult for wheelchair users to cross, and limiting their
18 physical and mechanical endurance.

19 gg) The salon near the business center and at
20 the south side of the building has a slope on its interior
21 landing that is not level as require by code, making it
22 difficult for wheelchair user to open and go through the door.

23 hh) There is a ramp on the interior of the
24 aforementioned salon that has improper handrails that do not
25 meet the graspability requirements of the code, and which do
26 not extend sufficiently beyond the top and bottom ramp
27 segment, and the ramp's slope will require a formal inspection
28 to verify whether it complies. These barriers limit and

1 hinder wheelchair access.

2 ii) The exterior door of the salon does not
3 have a level landing on the exterior side, and has a push
4 pressure that exceeds the 5 lbs. maximum permitted by code,
5 which both makes it difficult for a wheelchair user to open
6 and go through the door.

7 jj) All of the stairs between the second floor
8 and the lobby do not have contrasting stripe on the leading
9 edge of the top and bottom riser in each stair run, making it
10 difficult for Plaintiff to achieve the earliest possible
11 warning when encountering a sudden drop off or change in rise.

12 kk) The handrails on the aforementioned
13 stairways do not meet the graspability requirements specified
14 by code for handrails on a stairway, making it difficult for
15 semi-ambulatory use.

16 ll) The house-phone by the elevator and the
17 ATM machine at the Southeast corner of the lobby is set above
18 the 54 inch maximum height permitted by the code and lacks a
19 clear floor space required by the code, making it difficult
20 for the wheelchair user to get to and reach this device.

21 mm) The ATM machine at the southeast corner of
22 the lobby and across from the elevator has a highest operable
23 mechanism that exceeds the 54 inch maximum permitted by code,
24 making this device difficult to impossible for the wheelchair
25 user to utilize.

26 nn) The typical ice machine room has a path of
27 travel along the face of the machines that is far below the 36
28 inch minimum width specified by code, and in one of the ice

1 machine rooms on the second floor does have a compliant path
2 along the face of the machines, does not have required turn-
3 around space, which would allow the wheelchair user to turn
4 around and get out of the room. Also, within the first floor
5 ice machine room at northwest corner of the building, there is
6 a washing machine and dryer. All of these deficiencies reduce
7 the wheelchair users ability to get to, and utilize, these
8 machines.

9 oo) There is soap dispenser in the landing of
10 the first floor ice machine/washing machine room that
11 obstructs the use of this landing, and thus reduces the
12 accessible route into the room. The height of the operable
13 mechanism for the washer dryer combination exceeds the 54 inch
14 maximum height permitted by code. There is no clear floor
15 ground space next to the soap dispenser. All of these
16 deficiencies means these facilities are not accessible to, nor
17 usable by, persons using wheelchairs, who cannot reach or
18 access the necessary clearances to use the machines.

19 pp) There is an exit door from the raised bar
20 area in the lobby that goes along the north side of the
21 swimming pool area. The upper lobby door requires a push
22 pressure the exceeds the 5 lbs. maximum permitted by code, and
23 which has a landing on the exterior side that is not level as
24 required. These barriers make it difficult for a wheelchair
25 user to utilize.

26 qq) The length of the landing at the top of
27 the ramp does not meet the length requirements specified by
28 the code for a door landing at the top of a ramp segment,

1 making it difficult for the wheelchair user to go up the ramp
2 and get to the door safely.

3 rr) The aforementioned ramp has slopes and
4 excessive warping within it that exceed the 8.33% maximum
5 permitted by code, making it difficult for a wheelchair user
6 to use the ramp, and thereby limits his physical and
7 mechanical endurance.

8 ss) The handrails on this ramp do not provide
9 the graspable surface that is required by the code, and do not
10 extend beyond the top and bottom of the ramp run as required,
11 making it difficult for a wheelchair user to use the handrails
12 to go up or down the ramp.

13 tt) On information and belief, the length of
14 the ramp run exceeds the 30 inch maximum permitted by code,
15 which denies the required landing every 30 feet for resting,
16 and limits the disabled users physical and mechanical
17 endurance. At the top intermediate landing along this path of
18 travel, there is a landing that has a gate going into the pool
19 area that is served by stairs with no handrails, nor the
20 contrasting stripe on the nosing of each tread, limiting semi-
21 ambulatory use as previously described. The gate swings out
22 over the landing required at the top of the stairway, in
23 violation of code. This normal path of travel is not served
24 by a ramp, or wheelchair lift, as required by code, which
25 means a wheelchair user is forced to gain entry into the pool
26 area via a route that is multiple times longer than required
27 of other patrons of the hotel.

28 uu) The bottom landing for the top ramp run is

1 pie shaped, which provides zero landing on the south side of
2 the ramp increasing to a compliant landing on the opposite
3 ramp. However, for at least 70% of the ramp is not the 72
4 inch minimum length required by the code at a change in
5 direction. This barrier requires the user to change
6 directions in the middle of the ramp run without a level
7 landing, and reducing

8 vv) The second ramp run has non-compliant
9 cross-slopes within it, non-compliant handrails (similar to
10 the first, supra), and a non-compliant bottom landing (also
11 similar to the first), inhibiting access as previously
12 described.

13 ww) There is a second accessible entrance
14 between the bottom of the two ramp runs serving the pool.
15 This entrance to the pool is served by stairs that have no
16 contrasting stripe, have handrails that do not have the
17 graspability dimension required by the code, and the level
18 change is not served by a ramp or wheelchair lift as required
19 by the code. These conditions mean the stairs a more
20 difficult to traverse for the semi-ambulatory, and more
21 hazardous because the contrasting stripes are missing. Also,
22 the lack of a vertical means of access means the disabled user
23 cannot use this entrance, and the length of the path of travel
24 for the disabled user to reach the end point of this
25 destination is effectively doubled.

26 xx) There are two ramp segments on the west
27 side of the pool. The lower/shorter ramp segment has cross-
28 slopes the 2% maximum permitted by code, and has handrails

1 that do not provide the graspable surface required by code.
2 These conditions limit access by wheelchair users as
3 previously described.

4 yy) There is a gate on the intermediate
5 landing that does not have a 10-inch high smooth and
6 interrupted surface along the bottom edge of the gate that is
7 required by the code. This deficiency makes opening the gate
8 significantly harder for a wheelchair user.

9 zz) On information and belief, the pool itself
10 has no compliant Title 24 lift, nor does the Jacuzzi.

11 aaa) The path of travel to the emergency
12 shutoff for the Jacuzzi, and the operation timer is obstructed
13 by furniture, which is not maintained to keep this floor space
14 free and clear. The timer is a heavy spring-loaded control
15 that requires grasping, pinching and twisting of the wrist to
16 operate, which is in violation of code. These barriers
17 diminish Plaintiff's ability to access and use the controls.

18 bbb) The path around the pool has significant
19 cross-slopes in many areas, particularly around the drains,
20 which makes traversing this area significantly more difficult
21 for a wheelchair user, and additionally limiting their
22 physical and mechanical endurance.

23 ccc) At the northeast corner of the pool there
24 is a long flight of stairs to the lobby and bar patio area
25 that do not have handrails on either side, or contrasting
26 stripes, which makes this traversing these stairs hazardous
27 for semi-ambulatory individuals. There additionally is no
28 accessible route serving this normal path of travel, which

1 means a wheelchair user must go around the entire perimeter of
2 the pool area to gain access to the lobby and bar from this
3 access point.

4 ddd) In the southeast corner of the pool area,
5 there is a narrow walkway that is approximately 40 inches
6 wide, and has a slope that exceeds the 5% maximum slope
7 permitted by code, unless is treated as a fully compliant ramp
8 (which this path lacks elements for a ramp). This steep
9 walkway has a length of approximately 75 feet, does not
10 provide handrails or any other element of a compliant ramp,
11 and the slope of the walkway goes through the pool gate in
12 this location, all of which create a hazardous condition for
13 individuals who use wheelchairs, and make this path of travel
14 virtually inaccessible to them.

15 eee) In the grassy area on the east side of
16 this pool courtyard, near the southeast corner of the pool
17 courtyard, there is a trellised patio with a flagstone
18 surface, which is located across the grass, and is thus not
19 served by an accessible route that is stable, firm and slip
20 resistant, meaning it cannot be reached at all by persons with
21 disabilities using wheelchairs or other mobility assistive
22 devices. In addition, there is a vertical rise at the edge of
23 the concrete pad of approximately 4 inches creating a drop off
24 condition, which is hazardous to wheelchair users.

25 fff) The guestrooms along the south side of the
26 pool courtyard are served by a square stepping stone pathway
27 between the patio of the rooms and the sidewalk to the pool.
28 These approximately 24 inch stepping stones have grass between

1 them, and do not provide the accessible route along this
2 normal paths of travel required by the code. Because the
3 width of this path of travel is below the 36 inch minimum
4 required by code, the concrete surface is interrupted by grass
5 surface, which is not stable, firm and slip resistant, and
6 there is vertical rises between the grass surface and the
7 concrete surface of the stepping stones (at the gaps); none of
8 these paths of travel are usable by an individual who uses a
9 wheelchair or other mobility assistive device.

10 ggg) The entry at the southeast corner of the
11 pool courtyard has slopes exterior on the exterior side that
12 exceed the 2% maximum permitted by the code, have push
13 pressures on the door that exceed the 5 lbs. maximum permitted
14 by the code, has a landing on the exterior side of the door
15 that does not extend 24 inches beyond the strike edge of the
16 door, and does not extend 60 inches from the face of the
17 closed door. These conditions make this entrance not readily
18 accessible individuals who uses a wheelchair or other mobility
19 assistive devices; it is significantly harder to use.

20 hhh) The exterior door to the fitness room has
21 a landing on the exterior side that is not level as required
22 by the code. The push pressure required to open the fitness
23 entrance exceeds the 5 lbs. maximum permitted by code. The
24 interior landing for the fitness entrance is below the 18 inch
25 minimum for the strike side required by code. Each of these
26 deficiencies makes it more difficult for wheelchair users to
27 open and pass through this door.

28 iii) On the interior of the exercise room there

1 is a timer for the lights that requires grasping, pinching and
2 twisting of the wrist, and is not located adjacent to the 30 X
3 48 inch clear ground floor space required by the code. This
4 means this device may not be approached or used by persons
5 with Plaintiff's disabilities.

6 jjj) Adjacent to the light switch is an
7 emergency phone that is set higher than the maximum height
8 permitted by the code, and is not adjacent to the 30 X 48 inch
9 clear ground floor space required by the code, because this
10 telephone and light switch are located on the wall behind a
11 trash can and an exercise ball with a fixed base.
12 Consequently, wheelchair users cannot approach these devices,
13 and the phone is mounted too high to be used by and individual
14 in a wheelchair.

15 kkk) The only usable exercise equipment in this
16 room are the weights in the southeast corner of the room, and
17 that location has a path of travel to it that is obstructed by
18 the other equipment in the room leaving an accessible route
19 that is approximately 20 inches wide, which is below the 36
20 inch minimum width required by the code. This means persons
21 with Plaintiff's disabilities cannot readily access the
22 equipment.

23 lll) The men's locker room does not have the
24 Title 24 nor the ADA signage required on the exterior side of
25 the door. This means the disabled user is not given the
26 standard notification that this space is accessible to, and
27 usable by, individuals with disabilities.

28 mmm) The lock on the entry door requires

1 grasping, pinching and twisting of the wrist, which
2 dramatically increases the difficulty of locking and unlocking
3 the door for individuals who have a physical limitation
4 related to these actions, such as Plaintiff.

5 nnn) The sink is a pedestal type sink, which
6 does not provide any of the kneespace that is required by the
7 code, which means that a front approach to this sink is not
8 possible, and an individual using a wheelchair is not able to
9 use both hands simultaneously in the sink.

10 ooo) The height of the bottom edge of the
11 reflective surface of the mirror is set above the 40 inch
12 maximum height permitted by the code, meaning this amenity is
13 not usable by a person in a seated position while grooming.

14 ppp) The toilet in the men's locker room is not
15 mounted exactly 18 inches on center from the adjacent wall as
16 required by the code, and has a seat height that is below the
17 17 inch minimum height that is required by the code, which
18 makes the fixture more difficult and less safe from persons
19 who must transfer from a wheelchair.

20 qqq) The entrance on the northwest corner of
21 the building has a push pressure that exceeds the 5 lbs.
22 maximum permitted by the code, a landing on the exterior side
23 that exceeds the 2% maximum slope permitted by the code, has a
24 landing that does not extend 60 inches measured perpendicular
25 to the face of the closed door, and has a card key opening
26 mechanism that has a clear floor space overlaps the door swing
27 of the door. Each of these deficiencies makes the opening and
28 getting through the door more difficult for a disabled

1 individual who uses a wheelchair or other mobility-assistive
2 device, increases the hazard that individual will be struck by
3 the door being opened while their attempting to unlock it, and
4 requires the wheelchair user to unlock the door, move the
5 wheelchair and attempt to open the door before the time
6 permitted expires; which all otherwise limits the ability of
7 the user to use the key lock and door, and dramatically
8 increases the level of agility required to get through this
9 entrance.

10 rrr) The walkway at the northwest corner of the
11 building has a slope that exceeds 5% and is considered a ramp
12 by the code. However, this walkway has no elements of a fully
13 compliant ramp because it has a length of approximately 75
14 feet without a level landing, has a 90 degree change in
15 direction without a level landing, has cross-slopes in excess
16 of 2%, has no intermediate landings at all, and does not have
17 a bottom landing that is level as required by the code. All
18 of these deficiencies make traversing this length of sidewalk
19 more difficult if not hazardous for people who use wheelchairs
20 or other mobility assistive devices.

21 sss) The asphalt sidewalk along the west side
22 of the building has slopes within it that exceed 5%, and cross
23 slopes that exceed the 2% maximum, and no elements of a ramp
24 have been provided. These deficiencies make this traversing
25 this walkway physically demanding or hazardous than permitted
26 by the code.

27 ttt) There is no accessible route connecting
28 the northeast entrance to the sports and tennis courts. This

1 path of travel is interrupted by a curb without a curb-ramp
2 being provided. Consequently, this route is impassable by
3 wheelchair users.

4 uuu) The tennis and sports courts lack a
5 compliant accessible route from the hotel, i.e., that is free
6 of sudden changes in level, and that does not require the user
7 to proceed behind parked vehicles. The present conditions
8 require Plaintiff to pick an unregulated path through the
9 center of the parking lot and over a bumpy asphalt surface.
10 These conditions expose Plaintiff to hazard and limit physical
11 and mechanical endurance.

12 vvv) The tennis and sports courts each lack an
13 accessible entrance. Currently, the two courts lack
14 accessible strike side clearance on the pull side and level
15 landings, the gates do not open to the full 90 degree position
16 required by code, and the amount of push pressure required to
17 operate these gates exceeds the 5 lbs. maximum permitted by
18 code. These conditions make it difficult to impossible the
19 disabled to open and go through these gated entrances.

20 www) The designated disabled accessible
21 guestrooms are inaccessible to persons with Plaintiff's
22 disabilities. The barriers encountered by Plaintiff include,
23 but are not limited to:

24 1) The entry lacks the required strike
25 edge clearance and landing, making it difficult for Plaintiff
26 to open and go through the door.

27 2) The lock requires grasping, pinching
28 and twisting of the wrist to operate.

1 3) The rooms lamps require grasping,
2 pinching and twisting of the wrist to operate in violation of
3 the code, inhibiting Plaintiff's ability to use the device.

4 4) The guestroom's bathroom lacks the 60
5 inch turning diameter required by code, making it difficult to
6 impossible to turn, move among the amenities, and/or leave the
7 room.

8 5) The roll-in shower is too small, has
9 the wrong grab bar configuration, and its controls are located
10 on the wrong side and too far from the bench, making it
11 difficult to impossible for Plaintiff to safely enter and use
12 the facility.

13 6) The bathroom's entry door lacks
14 strike edge clearance and the required door landing on the
15 pull side, making it difficult to impossible for Plaintiff to
16 readily exit the bathroom.

17 7) The toilet lacks the required
18 transfer space at the front and side, it's flush valve is on
19 the narrow side instead of the wide-side position required by
20 code, and the toilet seat is set too high, making it difficult
21 to impossible for Plaintiff to use this facility.

22 8) The sink is set too low and does not
23 provide the required knee space, which exposes Plaintiff to
24 hazard, and makes it difficult to access the sink with both
25 hand simultaneously.

26 9) The typical furniture placement on
27 the patio obstructs the door swing, and the size of the
28 landing and clear floor space, making it difficult or

1 impossible for Plaintiff to enter and use the patio.

2 xxx) The hotel fails to sufficient disabled
3 accessible rooms and that are spread across the full range of
4 amenities, including the suites. The hotel additionally fails
5 to segregate provision of this obligation from other
6 accessibility room obligations, as required by code, causing
7 greater competition for the already limited room choices. As
8 a result, the disabled wheelchair and semi-ambulatory users
9 are not provided the full inventory and accommodation class
10 categories to which they are entitled by code, and their
11 opportunities are thus limited.

12 yyy) On information and belief, all standard
13 non-designated rooms and suites at the hotel lack the minimum
14 required access required by the Codes at the entrances and
15 doors, and for the path of travel to reach all spaces and
16 elements within the room. This makes it difficult to
17 impossible for the wheelchair user to enter and use these
18 guestrooms to the minimum level required by code.

19 15. Each of the foregoing barriers in the previous
20 paragraph inhibit and thereby discriminate against Plaintiff's
21 specific physical conditions, including, but not limited to,
22 those described in paragraph 2. Each of these facilities, and
23 others not listed, have not been fully inspected by Plaintiff's
24 legal representatives, including those in paragraph 14, and will
25 require the opportunity of a formal inspection, and the right to
26 take photographs and measurements in order to confirm.

27 16. As a result of the actions and failure to act of
28 Defendants, and each of them, and as a result of the failure to

1 provide appropriate disabled accessible guestrooms and hotel
2 amenities, Plaintiff suffered and will suffer a loss of his
3 civil rights to full and equal access to public facilities,
4 suffered strain and exhaustion from attempting to negotiate
5 barriers as well as pain and discomfort, and will suffer
6 emotional distress, mental distress, mental suffering, mental
7 anguish, which includes that shame, humiliation, embarrassment,
8 anger, chagrin, disappointment and worry, normally and naturally
9 expected and associated with a person with a physical disability
10 being denied access to a public accommodation, all to his
11 damages as prayed hereinafter in an amount within the
12 jurisdiction of this court.

13 17. Plaintiff regularly visit the area and have been
14 denied access at the hotel, or has been deterred from utilizing
15 its facilities. Plaintiff would like to return and use the
16 Doubletree Hotel Sonoma Wine Country on a planned or spontaneous
17 basis, but is unable to enjoy the safe full and equal access to
18 which he is entitled. The barriers to disabled access that
19 deter his return are permanent physical barriers. For instance,
20 the total absence of an accessible guestroom on the property and
21 with full amenities available elsewhere in the hotel.

22 18. On information and belief, a number of facilities in
23 the subject building have been remodeled during the statutory
24 period since July 1, 1970, triggering accessible "path of
25 travel" requirements to each area of alteration, which includes,
26 but is not limited to, accessible public sanitary facilities and
27 a path of travel, complying with ADA and Title 24 standards. On
28 information and belief, Defendants have not complied with these

1 legal obligations.

2 19. The "removal" of each of these barriers to use by
3 disabled persons was "readily achievable" under the standards of
4 Section 301(9) of the Americans With Disabilities Act of 1990
5 [42 U.S.C. 12181] at all times herein relevant. Section 303 of
6 the ADA [42 U.S.C. 12183] and California law also required the
7 removal of all such barriers upon performance of "alterations."

8 20. On information and belief, Defendants continue to the
9 present date to deny "full and equal access" to plaintiff and to
10 all other disabled persons, in violation of California law,
11 including Health & Safety Code Sections 19955 et seq., Civil
12 Code Sections 54 and 54.1, and Title 24 of the California Code
13 of Regulations (a.k.a. California Building Code). Further, such
14 denial of access to disabled persons also violates the
15 requirements of Title III of the federal Americans With
16 Disabilities Act of 1990, Sections 301 et seq. [42 U.S.C.,
17 §§ 12181 et seq.] (Hereinafter also called the "ADA").

18

19

FIRST CAUSE OF ACTION:

20 **BREACH OF STATUTORY PROTECTIONS FOR PHYSICALLY DISABLED PERSONS**

21 21. Plaintiff repleads and incorporates by reference, as
22 if fully set forth again herein, the allegations contained in
23 paragraphs 1 through 19, above.

24 22. Plaintiff is physically disabled under standards as
25 defined by all California statutes using these terms. Plaintiff
26 is also each an "individual with a disability" as defined by
27 Section 54(b) Civil Code, as well as Section 3(2) of the ADA.
28 Each violation of the ADA, as plead hereinafter, is incorporated

1 by reference as a separate violation of Sections 54(c) and
2 54.1(d) California Civil Code.

3 23. Health & Safety Code Section 19955 provides in
4 pertinent part:

5 (a) The purpose of this part is to insure that
6 public accommodations or facilities constructed in
7 this state with private funds adhere to the
8 provisions of Chapter 7 (commencing with § 4450) of
9 Division 5 of Title 1 of the Government Code. For
10 the purposes of this part "public accommodation or
11 facilities" means a building, structure, facility,
12 complex, or improved area which is used by the
13 general public and shall include auditoriums,
14 hospitals, theaters, restaurants, hotels, motels,
15 stadiums, and conventions centers.

16 24. Health and Safety Code Section 19956, which appears in
17 the same chapter as 19955, provides, in pertinent part: "[a]ll
18 public accommodations constructed in this state shall conform to
19 the provisions of Chapter 7 (commencing with § 4450) of Division
20 5 of Title 1 of the Government Code...."

21 25. Section 19956 Health & Safety Code was operative July
22 1, 1970, and is applicable to all public accommodations
23 constructed or altered after that date. On information and
24 belief, portions of the subject Doubletree Hotel Sonoma Wine
25 Country were constructed and/or altered after July 1, 1970, and
26 portions of the subject building were structurally remodeled,
27 altered and have undergone structural repairs or additions after
28 July 1, 1970. Such construction required such building and its

1 public accommodation facilities to be subject to the
2 requirements of Part 5.5, Sections 19955, et seq., of the Health
3 and Safety Code, which requires provision of access upon
4 "alterations, structural repairs or additions" per Section 19959
5 Health & Safety Code, or upon a change of occupancy (a form of
6 "alteration").

7 26. Pursuant to the authority delegated by Government Code
8 Section 4450, et seq., the State Architect promulgated
9 regulations for the enforcement of these provisions. Effective
10 January 1, 1982, Title 24 of the California Administrative Code
11 adopted the California State Architect's Regulations and these
12 regulations must be complied with as to any modifications of the
13 subject building and its facilities occurring after that date.
14 Any alterations of the building after January 1, 1982 required
15 compliance with the Title 24 regulations then in effect,
16 including that an accessible path of travel leading to such
17 facility from the adjoining public right of way. Prior to 1982,
18 similar requirements were incorporated into the law from the
19 American Standards Association. On information and belief, one
20 or more of the constructions of and alterations upon and
21 modifications of the subject facilities occurred during the
22 period of time that sections of the Health and Safety Code have
23 provided that all buildings and facilities used by the public
24 must conform to each of the standards and specifications
25 described in the American Standards Association Specifications,
26 or, as to construction occurring after January 1, 1982, to the
27 standards of Title 24, the State Architect's Regulations.

28 27. Plaintiff is informed and believes and therefore

1 alleges that Defendants, and their predecessors in interest as
2 owners, operators and/or lessors of the subject public
3 accommodation (for which the Defendants as current owners,
4 operators and/or lessors of the building are responsible), and
5 each of them caused the subject property to be constructed,
6 altered and maintained in such a manner that physically disabled
7 persons were denied full and equal access to, within and
8 throughout said facilities, and full and equal use of said
9 building. Further, on information and belief, Defendants and
10 each of them have continued to maintain and operate such
11 building and its facilities in such condition up to the present
12 time, despite actual and constructive notice to such Defendants,
13 and each of them (which includes Plaintiff's discussions with
14 hotel personnel, such as Plaintiff. Such construction,
15 modification, ownership, operation, maintenance and practices of
16 such a public facility is in violation of law as stated in Part
17 5.5, Sections 19955ff Health and Safety Code, Sections 54 and
18 54.1, et seq., Civil Code, and elsewhere in the laws of
19 California.

20 28. On information and belief, the subject building and
21 the Defendants and each of them have denied full and equal
22 access to disabled persons in other respects due to non-
23 compliance with requirements of Title 24 of the California Code
24 of Regulations, and of other provisions of disabled access legal
25 requirements. Additionally, maintaining the barriers specified
26 in this complaint is independently a violation of both Title 24
27 of the California Building Code, and of Sections 54 and 54.1
28 Civil Code and their guarantee of "full and equal" access to all

1 public facilities (as pled in the third cause of action, and
2 also repleads and incorporated herein by reference, as if fully
3 restated hereafter), in conjunction with Section 19955ff, per
4 James Donald v. Cafe Royalé (1990) 218 Cal.App.3d 168.

5 29. Injunctive Relief - The acts and omissions of
6 Defendants as complained of continue to have the effect of
7 allowing Defendants to wrongfully exclude Plaintiff, and other
8 similarly situated members of the public who are physically
9 disabled, from full and equal access to the subject Doubletree
10 Hotel Sonoma Wine Country. Such acts and omissions are the
11 continuing cause of humiliation and mental and emotional
12 suffering to Plaintiff and other similarly situated persons in
13 that these actions treat them as inferior and second class
14 citizens and serve to discriminate against them, so long as
15 Defendants do not provide a properly accessible, safe and equal
16 use of such facilities. Said acts have proximately caused and
17 will continue to cause irreparable injury to Plaintiff and other
18 similarly situated persons if not enjoined by this court.

19 30. Plaintiff seeks injunctive relief, pursuant to
20 Section 19953 Health and Safety Code and Section 55 Civil Code,
21 prohibiting those of the Defendants that currently own, operate,
22 and/or lease (from or to) the subject Doubletree Hotel Sonoma
23 Wine Country, from maintaining architectural barriers to the use
24 by disabled persons of public accommodations and facilities, in
25 violation of Part 5.5, Sections 19955ff Health and Safety Code.
26 Plaintiff seeks to require such Defendants to create safe and
27 properly accessible facilities.

28 31. Attorneys' Fees - As a result of Defendants' acts and

omissions in this regard, Plaintiff has been required to incur legal expenses and hire attorneys in order to enforce Plaintiff's rights and those of other similarly situated persons, and to enforce provisions of the law protecting access for the disabled, and prohibiting discrimination against the disabled, and to take such action both in his own interest and in order to enforce an important right affecting the public interest. Plaintiff therefore seeks recovery of all reasonable attorneys' fees, litigation expenses and costs incurred, pursuant to the provisions of Section 1021.5 of the Code of Civil Procedure. Plaintiff additionally seeks an award of reasonable statutory attorneys' fees and costs pursuant to Section 19953 Health and Safety Code.

WHEREFORE, Plaintiff prays for relief as hereinafter stated.

SECOND CAUSE OF ACTION:

**VIOLATION OF DISABLED RIGHTS ACT,
CIVIL CODE §§ 54, 54.1, 54.3 ET SEQ.**

DENIAL OF FULL AND EQUAL ACCESS TO A PHYSICALLY DISABLED PERSON

32. Plaintiff repleads and incorporates, as if fully set forth again herein, the allegations contained in paragraphs 1 through 31, above.

33. At all times relevant to this action, California Civil Code Sections 54 and 54.1 have provided that physically disabled persons are not to be discriminated against because of physical handicap or disability. Section 54 Civil Code provides:

Individuals with disabilities shall have the same

1 right as the general public to the full and free use
2 of the streets, highways, sidewalks, walkways, public
3 buildings, public facilities, including hospitals,
4 clinics, and physicians' offices, public facilities,
5 and other public places.

6 Section 54.1 Civil Code provides that:

7 (a)(1) Individuals with disabilities shall be
8 entitled to full and equal access, as other members of
9 the general public, to accommodations, advantages,
10 facilities, medical facilities... and privileges of
11 all common carriers, airplanes, motor vehicles... or
12 any other public conveyances or modes of
13 transportation... hotels, lodging places, places of
14 public accommodation and amusement or resort, and
15 other places to which the general public is invited,
16 subject only to the conditions or limitations
17 established by law, or state or federal regulations,
18 and applicable alike to all other persons.

19 34. California Civil Code Section 54.3 provides that any
20 person or corporation who denies or interferes with admittance
21 to or enjoyment of the public facilities as specified in
22 Section 54 and 54.1 Civil Code is liable for EACH such offense
23 for the actual damages and any amount up to a maximum of three
24 times the amount of actual damages but in no case less than
25 \$1,000 and such attorneys' fees that may be determined by the
26 Court in addition thereto, suffered by any person denied any of
27 the rights provided in Sections 54 and 54.1, for services
28 necessary to enforce those rights.

1 35. As a result of the actions and failure to act of
2 Defendants, and each of them, and as a result of the failure
3 to provide appropriate disabled accessible guestrooms and
4 hotel amenities, Plaintiff suffered and will suffer a loss of
5 his civil rights to full and equal access to public
6 facilities, suffered strain and exhaustion from attempting to
7 negotiate barriers as well as pain and discomfort, and will
8 suffer emotional distress, mental distress, mental suffering,
9 mental anguish, which includes that shame, humiliation,
10 embarrassment, anger, chagrin, disappointment and worry,
11 normally and naturally expected and associated with a person
12 with a physical disability being denied access to a public
13 accommodation, all to their damages as prayed hereinafter in
14 an amount within the jurisdiction of this court.

15 36. Plaintiff is a person within the meaning of Civil Code
16 Sections 54 and 54.1 whose rights have been infringed upon and
17 violated by the Defendants. Plaintiff has been denied full and
18 equal access during the period within two years before the
19 filing of the complaint, and on each specific date of potential
20 use in which full and equal access to such facility was denied
21 or deterred. On information and belief, Defendants have failed
22 to act to provide full and equal public access to their subject
23 hotel, and continue to operate in violation of the law and
24 continue to discriminate against physically disabled persons by
25 failing to allow access to their building, and make reasonable
26 modifications in policy respecting servicing the disabled who
27 cannot enter or use facilities on a full and equal basis.

28 37. At all times relevant, Defendants were on notice of

1 the requirements of the law relating to provision for full and
2 equal disabled access. Especially as Defendants were on full
3 notice, each date that Plaintiff's visits the area that
4 Defendants have continued to deny access to disabled persons
5 constitutes a new and distinct violation of each Plaintiff's
6 right to full and equal access to this public facility, in
7 violation of Sections 54 and 54.1, et seq. Civil Code. In the
8 event of a default judgment against any particular defendant,
9 each Plaintiff will seek an injunction requiring provision of
10 access to all facilities listed in paragraph 4, etc. (all as
11 identified in paragraphs 14 through **Error! Reference source not**
12 **found.**, above), plus damages of \$4,000 damages per incident of
13 denial and/or deterrence, plus reasonable attorneys' fees,
14 litigation expenses and costs as set by the court, until it is
15 brought into full compliance with state and federal access laws
16 protecting the rights of the disabled.

17 38. Plaintiff has been damaged by Defendants' wrongful
18 conduct and seek the relief that is afforded by Sections 54.1,
19 54.3 and 55 of the Civil Code. Each Plaintiff seeks actual
20 damages, and statutory and treble damages against Defendants for
21 all periods of time mentioned herein. As to those of the
22 Defendants that currently own, operate, and/or lease (from or
23 to) the subject hotel, Plaintiff seeks preliminary and permanent
24 injunctive relief to enjoin and eliminate the discriminatory
25 practices and barriers that deny equal access for disabled
26 persons, and for reasonable attorneys' fees.

27 39. WHEREFORE, Plaintiff asks this Court to enjoin any
28 continuing refusal by the Defendants that currently own,

1 operate, and or lease (from or to) the subject Doubletree Hotel
2 Sonoma Wine Country, to grant such access to Plaintiff and other
3 similarly situated disabled persons, or alternatively to enjoin
4 operation of the subject Doubletree Hotel Sonoma Wine Country as
5 a public accommodation until such Defendants comply with all
6 applicable statutory requirements relating to access to
7 physically disabled persons, and that the Court award Plaintiff
8 his counsel's reasonable statutory attorneys' fees, litigation
9 expenses and costs pursuant to Civil Code Section 55, Code of
10 Civil Procedure Section 1021.5, and Health & Safety Code
11 Section 19953, and as further prayed for herein.

12 WHEREFORE, Plaintiff prays for damages and injunctive
13 relief as hereinafter stated.

14
15 **THIRD CAUSE OF ACTION:**

16 **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

17 **42 USC §§ 12101ff**

18 40. Plaintiff repleads and incorporates, as if fully set
19 forth again herein, the factual allegations contained in
20 paragraphs 1 through 39, above.

21 41. Pursuant to law, in 1990 the United States Congress
22 made findings per 42 U.S.C. Section 12101 regarding physically
23 disabled persons, finding that laws were needed to more fully
24 protect "some 43 million Americans with one or more physical or
25 mental disabilities;" that "historically society has tended to
26 isolate and segregate individuals with disabilities;" that "such
27 forms of discrimination against individuals with disabilities
28 continue to be a serious and pervasive social problem;" that

1 "the Nation's proper goals regarding individuals with
2 disabilities are to assure equality of opportunity, full
3 participation, independent living and economic self sufficiency
4 for such individuals;" and that "the continuing existence of
5 unfair and unnecessary discrimination and prejudice denies
6 people with disabilities the opportunity to compete on an equal
7 basis and to pursue those opportunities for which our free
8 society is justifiably famous..."

9 42. Congress stated as its purpose in passing the
10 Americans with Disabilities Act (42 USC § 12101(b)):

11 It is the purpose of this act -

12 (1) to provide a clear and comprehensive national
13 mandate for the elimination of discrimination against
14 individuals with disabilities;

15 (2) to provide clear, strong, consistent,
16 enforceable standards addressing discrimination
17 against individuals with disabilities;

18 (3) to ensure that the Federal government plays a
19 central role in enforcing the standards established in
20 this act on behalf of individuals with disabilities;
21 and

22 (4) to invoke the sweep of Congressional
23 authority, including the power to enforce the 14th
24 Amendment and to regulate commerce, in order to
25 address the major areas of discrimination faced day to
26 day by people with disabilities. (Emphasis added)

27 43. As part of the Americans with Disabilities Act, Public
28 Law 101-336, (hereinafter the "ADA"), Congress passed "Title III

1 - Public Accommodations and Services Operated by Private
 2 Entities" (42 U.S.C 12181ff). Among "private entities" which
 3 are considered "public accommodations" for purposes of this
 4 title are identified as "an inn, hotel, motel, or other place of
 5 lodging," and "a restaurant, bar or other establishment serving
 6 food or drink," and "an auditorium, convention center, lecture
 7 hall, or other place of public gathering." (§§ 301(7), (A)-(B),
 8 and (D) [42 U.S.C. 12181].)

9 44. Pursuant to Section 302 [42 U.S.C 12182], "[n]o
 10 individual shall be discriminated against on the basis of
 11 disability in the full and equal enjoyment of the goods,
 12 services, facilities, privileges, advantages, or accommodations
 13 of any place of public accommodation by any person who owns,
 14 leases, or leases to, or operates a place of public
 15 accommodation."

16 45. Among the general prohibitions of discrimination
 17 included in Section 302(b)(1)(A) are the following:

18 § 302(b)(1)(A)(i): "DENIAL OF PARTICIPATION. -

19 It shall be discriminatory to subject an individual or
 20 class of individuals on the basis of a disability or
 21 disabilities of such individual or class, directly, or
 22 through contractual, licensing, or other arrangements,
 23 to a denial of the opportunity of the individual or
 24 class to participate in or benefit from the goods,
 25 services, facilities, privileges, advantages, or
 26 accommodations of an entity."

27 § 302(b)(1)(A)(ii): "PARTICIPATION IN UNEQUAL
 28 BENEFIT - It shall be discriminatory to afford an

1 individual or class of individuals, on the basis of a
2 disability or disabilities of such individual or
3 class, directly, or through contractual, licensing, or
4 other arrangements with the opportunity to participate
5 in or benefit from a good, service, facility,
6 privilege, advantage, or accommodation that is not
7 equal to that afforded to other individuals."

8 § 302(b)(1)(A)(iii): "SEPARATE BENEFIT. - It
9 shall be discriminatory to provide an individual or
10 class of individuals, on the basis of a disability or
11 disabilities of such individual or class, directly, or
12 through contractual, licensing, or other arrangements
13 with a good, service, facility, privilege, advantage,
14 or accommodation that is different or separate from
15 that provided to other individuals, unless such action
16 is necessary to provide the individual or class of
17 individuals with a good, service, facility, privilege,
18 advantage, or accommodation, or other opportunity that
19 is as effective as that provided to others."

20 46. Among the specific prohibitions against discrimination
21 in the ADA include the following:

22 § 302(b)(2)(A)(ii): "A failure to make reasonable
23 modifications in policies, practices or procedures
24 when such modifications are necessary to afford such
25 goods, services, facilities, privileges, advantages or
26 accommodations to individuals with disabilities..."

27 § 302(b)(2)(A)(iii): "A failure to take such
28 steps as may be necessary to ensure that no individual

1 with a disability is excluded, denied services,
2 segregated or otherwise treated differently than other
3 individuals because of the absence of auxiliary aids
4 and services, unless the entity can demonstrate that
5 taking such steps would fundamentally alter the nature
6 of the good, service, facility, privilege, advantage,
7 or accommodation being offered or would result in an
8 undue burden;"

9 § 302(b)(2)(A)(iv): "A failure to remove
10 architectural barriers, and communication barriers
11 that are structural in nature, in existing
12 facilities... where such removal is readily
13 achievable;"

14 § 302(b)(2)(A)(v): "Where an entity can
15 demonstrate that the removal of a barrier under clause
16 (iv) is not readily achievable, a failure to make such
17 goods, services, facilities, privileges, advantages,
18 or accommodations available through alternative
19 methods if such methods are readily achievable." The
20 acts and omissions of Defendants set forth herein were
21 in violation of Plaintiff's rights under the ADA,
22 Public Law 101-336, and the regulations promulgated
23 thereunder, 28 CFR Part 36ff.

24 47. The removal of each of the barriers complained of by
25 plaintiff as hereinabove alleged were - at all times on or after
26 January 26, 1992 - "readily achievable."

27 48. Further, at all times herein mentioned, modification
28 of or removal of these barriers was "readily achievable" under

1 the factors specified in the Americans with Disabilities Act of
2 1990, including but not limited to section 301(9) [42 U.S.C.
3 12181], and the Regulations adopted thereto.

4 49. Further, if Defendants are collectively able to
5 "demonstrate" that it was not "readily achievable" for
6 Defendants to remove each of such barriers, Defendants have
7 failed to make the required services available through
8 alternative methods which were readily achievable, as required
9 by Section 302 of the ADA [42 U.S.C. 12182].

10 50. "Discrimination" is further defined under
11 Section 303(a)(2) of the ADA, for a facility or part thereof
12 that was altered after the effective date of Section 303 of the
13 ADA in such a manner as to affect or that could affect the
14 usability of the facility or part thereof by persons with
15 disabilities, to include per Section 303(a)(2) [42 U.S.C.
16 12183], "a failure to make alterations in such a manner that, to
17 the maximum extent feasible, the altered portions of the
18 facility are readily accessible to and usable by individuals
19 with disabilities, including individuals who use wheelchairs."
20 Additionally, for alterations to areas of a facility involving a
21 "primary function," discrimination under the ADA, per Section
22 303(a)(2) (42 U.S.C. 12183), also includes the failure of an
23 entity "to make the alterations in such a manner that, to the
24 maximum extent feasible, the path of travel to the altered area
25 and the bathrooms, telephones, and drinking fountains serving
26 the altered area, are readily accessible to and usable by
27 individuals with disabilities." On information and belief, the
28 subject building constitutes a "commercial facility," and

1 Defendants have, since the date of enactment of the ADA,
2 performed alterations (including alterations to areas of primary
3 function) to the subject building and its facilities, public
4 accommodations, and commercial facilities, which fail to provide
5 facilities and paths of travel to such areas that are readily
6 accessible to and usable by individuals with disabilities, in
7 violation of Section 303(a)(2), and the regulations promulgated
8 thereunder, 28 CFR Part 36ff.

9 51. Pursuant to the Americans with Disabilities Act, 42
10 USC 12188ff, Section 308, Plaintiff is entitled to the remedies
11 and procedures set forth in Section 204, subsection (a), of the
12 Civil Rights Act of 1964 (42 USC 2000a-3, at subsection (a)), as
13 Plaintiff is being subjected to discrimination on the basis of
14 disability in violation of this title or has reasonable grounds
15 for believing that they is about to be subjected to
16 discrimination in violation of Sections 302 and 303. On
17 information and belief, Defendants continue to violate the law
18 and deny the rights of Plaintiff and of other disabled persons
19 to access this public accommodation. Pursuant to
20 Section 308(a)(2), "[i]n cases of violations of
21 Section 302(b)(2)(A)(iv)... injunctive relief shall include an
22 order to alter facilities to make such facilities readily
23 accessible to and usable by individuals with disabilities to the
24 extent required by this title."

25 52. As a result of Defendants' acts and omissions in
26 this regard, Plaintiff has been required to incur legal expenses
27 and attorney fees, as provided by statute, in order to enforce
28 his rights and to enforce provisions of the law protecting

1 access for disabled persons and prohibiting discrimination
2 against disabled persons. Plaintiff therefore seeks recovery of
3 all reasonable attorneys' fees, litigation expenses (including
4 expert fees) and costs, pursuant to the provisions of Section
5 505 of the ADA (42 U.S.C. 12205) and the Department of Justice's
6 regulations for enforcement of Title III of the ADA (28 CFR
7 36.505). Additionally, Plaintiff's lawsuit is intended not only
8 to obtain compensation for damages to Plaintiff, but also to
9 require the Defendants to make their facilities accessible to
10 all disabled members of the public, justifying "public interest"
11 attorneys' fees pursuant to the provisions of California Code of
12 Civil Procedure Section 1021.5.

13 WHEREFORE, Plaintiff prays that this Court grant
14 relief as hereinafter stated:
15

16 **FOURTH CAUSE OF ACTION:**

17 **DAMAGES AND INJUNCTIVE RELIEF UNDER THE DISABLED RIGHTS ACT**
18 **FOR VIOLATION OF TITLE III OF THE AMERICANS WITH DISABILITIES ACT**

19 53. Plaintiff repleads and incorporates by reference, as
20 if fully set forth again herein, the allegations contained in
21 paragraphs 1 through 52 of this complaint.

22 54. Each violation of the Americans With Disabilities Act
23 of 1990, as complained of in the Third Causes of Action
24 hereinabove (the contents of which causes of action have been
25 incorporated herein as if separately restated word for word
26 hereafter), is also a violation of section 54(c) and section
27 54.1(d) California Civil Code, further and independently
28 justifying damages, injunctive relief, and other statutory

1 relief per sections 54.3 and 55 California Civil Code, all as
2 previously pled.

3 55. As a result of Defendants' acts and omissions in
4 this regard, Plaintiff has been required to incur legal expenses
5 and attorney fees, as provided by statute, in order to enforce
6 his rights and to enforce provisions of the law protecting
7 access for disabled persons and prohibiting discrimination
8 against disabled persons. Plaintiff therefore seeks recovery of
9 all reasonable attorneys' fees, litigation expenses (including
10 expert fees) and costs, pursuant to the provisions of Section 55
11 of the Civil Code. Additionally, Plaintiff's lawsuit is
12 intended not only to obtain compensation for damages to
13 Plaintiff, but also to require the Defendants to make their
14 facilities accessible to all disabled members of the public,
15 justifying "public interest" attorneys' fees pursuant to the
16 provisions of California Code of Civil Procedure Section 1021.5.

17 WHEREFORE, Plaintiff prays for damages and injunctive
18 relief as hereinafter stated.

19

20 **FIFTH CAUSE OF ACTION:**

21 **DAMAGES AND INJUNCTIVE RELIEF UNDER THE UNRUH CIVIL RIGHTS ACT**
22 **FOR VIOLATION OF TITLE III OF THE AMERICANS WITH DISABILITIES ACT**

23 56. Plaintiff repleads and incorporates by reference, as
24 if fully set forth again herein, the allegations contained in
25 paragraphs 1 through 55 of this complaint.

26 57. Each violation of the Americans With Disabilities Act
27 of 1990, as complained of in the Third Causes of Action
28 hereinabove (the contents of which causes of action have been

1 incorporated herein as if separately repled), is also a
2 violation of section 51(f) of the Unruh Civil Rights Act,
3 further and independently justifying damages of \$4,000 per
4 offense, injunctive relief, and other statutory relief per
5 Section 52 and common law decision.

6 58. As a result of Defendants' acts and omissions in
7 this regard, Plaintiff has been required to incur legal expenses
8 and attorney fees, as provided by statute, in order to enforce
9 his rights and to enforce provisions of the law protecting
10 access for disabled persons and prohibiting discrimination
11 against disabled persons. Plaintiff therefore seeks recovery of
12 all reasonable attorneys' fees, litigation expenses (including
13 expert fees) and costs, pursuant to the provisions of Section 55
14 of the Civil Code. Additionally, Plaintiff's lawsuit is
15 intended not only to obtain compensation for damages to
16 Plaintiff, but also to require the Defendants to make their
17 facilities accessible to all disabled members of the public,
18 justifying "public interest" attorneys' fees pursuant to the
19 provisions of California Code of Civil Procedure Section 1021.5.

20 WHEREFORE, Plaintiff prays for damages and injunctive
21 relief as hereinafter stated.

22
23 **SIXTH CAUSE OF ACTION:**

24 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
25 **UNFAIR COMPETITION THROUGH VIOLATION OF CALIFORNIA AND STATE LAW**
26 **PROTECTING THE RIGHTS OF DISABLED PERSONS**

27 59. Plaintiff repleads and incorporates by reference, as
28 if fully set forth again herein, the factual allegations

1 contained in paragraphs 1 through 58 of this complaint.

2 60. On a yearly basis, the Defendants are engaged in the
3 business of providing hotel services and facilities at the
4 Doubletree Hotel Sonoma Wine Country throughout the year.

5 61. Plaintiff have incurred actual injury and is out of
6 pocket for the experience. Defendants' unfair practice lures
7 unsuspecting disabled customers such as Plaintiff to book rooms
8 at the hotel, who expect to be able to rent an accessible room.
9 Because of the advance planning required to find an accessible
10 hotel, Defendants representations place Plaintiff in untenable
11 position only after its too late. Only upon arrival and
12 obligation (and the incurrence of great inconvenience) do they
13 learn that Defendants falsely advertise the "accessibility" of
14 their rooms.

15 62. In this respect, Defendants also compete unfairly and
16 otherwise reduce the inventory and opportunity of disabled
17 accessible room available to Plaintiff and other persons
18 similarly situated.

19 63. Commencing within three years of the date of the
20 original complaint filed in this action, the Defendants have
21 committed acts of unfair competition, as defined by Business and
22 Professions Code section 17200, by providing facilities that are
23 inaccessible to the disabled members of the general public,
24 including, but not limited to the acts facilities beginning at
25 paragraph 14, above, all in violation of standards of sections
26 54 and 54.1 et seq. Civil Code; Title 24 of the California
27 Administrative Code; sections 4450-4456 Government Code;
28 sections 19952, 19953 and 19955-19959 Health & Safety Code;

1 Title III of the Americans With Disabilities Act of 1990; and
2 the Americans With Disabilities Act Access Guidelines.

3 64. The acts and practices of the Defendants are likely to
4 continue and therefore will continue to mislead the general
5 public as to the true cost of providing the specified goods and
6 services and their expected availability to members of the
7 public with physical disabilities pursuant to law.

8 65. As a direct and proximate result of the Defendants'
9 conduct, Defendants have received and continue to receive unfair
10 profits that rightfully belong to members of general public who
11 have been adversely affected by Defendants' conduct, such as
12 plaintiff.

13 66. Plaintiff has no adequate remedy at law, and unless
14 the relief requested herein is granted, plaintiff will suffer
15 irreparable harm in that Doubletree Hotel Sonoma Wine Country
16 will continue to be discriminated against and denied access to
17 the specified public facilities. Because Plaintiff seeks
18 improvement of access for persons with disabilities, which will
19 benefit a significant portion of the public, Plaintiff seeks
20 recovery of reasonable attorneys' fees pursuant to sections 52,
21 54.3 and 55 Civil Code, section 1021.5 Code of Civil Procedure,
22 section 19953 Health & Safety Code, and section 505 of the
23 Americans with Disabilities Act.

24 Wherefore, Plaintiff prays that the court grant relief
25 as requested herein below.

26 ////

27

28

SEVENTH CAUSE OF ACTION:

VIOLATION OF GOVERNMENT CODE SECTION 12948

67. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the factual allegations contained in paragraphs 1 through 66 of this complaint.

68. Defendants' actions are in violation of Government Code Section 12948, and the corresponding Civil Code Sections 51, 54, and 54.1.

69. Plaintiff seeks injunctive relief, statutory and compensatory damages, punitive damages, and attorneys fees under the FEHA.

Wherefore, Plaintiff prays that the court grant relief as requested herein below.

EIGHTH CAUSE OF ACTION:

NEGLIGENCE PER SE IN INJURING PLAINTIFF DUE TO VIOLATIONS OF
STATE AND FEDERAL LAW PROTECTING THE DISABLED, AND COMPLETE

INDIFFERENCE TO THE CERTAIN RESULT

70. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the factual allegations contained in paragraphs 1 through 69 of this complaint.

71. Defendants' actions, as previously pled, constitute negligence per se, as they constitute violations of state and federal laws protecting the rights and safety of disabled persons such as Plaintiff.

72. Further, any violation of the Americans With Disabilities Act of 1990 (as pled in the Third Cause of Action hereinabove, the contents of which are repled and incorporated

1 herein, word for word, as if separately restated hereafter),
2 also constitutes a violation of Section 54(c) and Section
3 54.1(d) California Civil Code, thus independently justifying an
4 award of damages and injunctive relief pursuant to California
5 law on this basis, including but not limited to Civil Code
6 Sections 54.3 and 55.

7 Wherefore, Plaintiff prays that the court grant relief
8 as requested herein below.

9

10

NINTH CAUSE OF ACTION:

11

(Declaratory Relief)

12 73. Plaintiff repleads and incorporates by reference, as
13 if fully set forth again herein, the allegations contained in
14 paragraphs 1 through 72 of this complaint and incorporates them
15 herein as if separately replied.

16 74. A present and actual controversy exists among the
17 respective rights and obligations of Plaintiff and Defendants,
18 and separately, as to the obligations that have been impressed
19 by the aforementioned statutes against the hotel property
20 irrespective of past or future ownership. Plaintiff requests a
21 judicial determination of his rights and such obligations in a
22 declaration, and also as to whether and to what extent
23 Defendants' conduct and the current configuration of the
24 property violates applicable law.

25 75. Such a declaration is necessary and appropriate at
26 this time in order that Plaintiff may ascertain his rights.
27 Such declaration is further necessary and appropriate to prevent
28 further harm or infringement of Plaintiff's Civil Rights.

1 Doubletree Hotel Sonoma Wine Country, inter alia, "alter the
2 subject facilities to make such facilities readily accessible to
3 and usable by individuals with disabilities," and institute
4 reasonable modifications in policies and practices, per
5 Section 308 of Public Law 101-336 (the ADA);

6 2. General, compensatory, and statutory damages, and
7 all damages as afforded by Civil Code Sections 54.3, including
8 treble damages, for each violation and each date of use or
9 deterrence, according to proof.

10 3. General, compensatory, and statutory damages, and
11 all damages as afforded by Civil Code Sections 52, including
12 treble damages, for each violation and each date on which
13 Defendants have denied to Plaintiff equal access for the
14 disabled under Title III of the ADA, according to proof.

15 4. During the pendency of this action, a preliminary
16 injunction issue pursuant to Business and Professions Code
17 section 17203 to enjoin and restrain Defendants from the acts of
18 unfair competition set forth above;

19 5. A permanent injunction pursuant to Business and
20 Professions Code section 17203 restraining and enjoining the
21 Defendants from continuing the acts of unfair competition set
22 forth above;

23 6. Attorney's fees, litigation expenses and costs
24 pursuant to Sections 54.3 and 55 of the Civil Code,
25 Section 19953 Health & Safety Code, Section 1021.5 Code of Civil
26 Procedure, Section 505 of the ADA, and California's UCL;

27 7. Punitive damages pursuant to Section 3294 Civil
28 Code (Re: Seventh and Eighth Causes of Action);

1 8. For all costs of suit;

2 9. Prejudgment interest pursuant to Section 3291 of
3 the Civil Code;

4 10. Such other and further relief as the Court deems
5 just and proper.

6
7 Dated: January 21, 2011

THIMESCH LAW OFFICES
TIMOTHY S. THIMESCH

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9 

10 Attorneys for Plaintiff
11 ED MUEGGE

12
13 DEMAND FOR JURY TRIAL

14 Plaintiff hereby demands a jury for all claims for
15 which a jury is permitted.

16
17
18 Dated: January 21, 2011

19 

20 By: TIMOTHY S. THIMESCH
21 Attorneys for Plaintiff
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